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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/585,896

07/12/2006

Hans-Gunter Benner

06076604

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03/18/2008

HANLEY, FLIGHT & ZIMMERMAN, LLC  
150 S. WACKER DRIVE  
SUITE 2100  
CHICAGO, IL 60606

EXAMINER

LE BOULLUEC, MICHAEL E

ART UNIT

PAPER NUMBER

4146

MAIL DATE

DELIVERY MODE

03/18/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/585,896	<b>Applicant(s)</b> BENNER ET AL.	
	<b>Examiner</b> MICHAEL LE BOULLUEC	<b>Art Unit</b> 4146	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 July 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 July 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12 July 2006</u>  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Priority***

Acknowledgment is made of applicant's claim for foreign priority based on an application filed in the United States on 20 July 2006. It is noted, however, that applicant has not filed a certified copy of the Israeli Patent No. 176167 application as required by 35 U.S.C. 119(b).

### ***Specification***

1. The specification is objected to because of the following informalities:
  - On page 5, line 10 "abovementioned" should be - above mentioned -.Appropriate correction is required.

### ***Claim Objections***

2. Claim 3 is objected to because of the following informalities:
  - in line 1, the subject claim is dependent on claim 1 or 2. The phrases "front side" and "rear side" have no antecedent basis in claim 1. The applicant must change the dependency of the subject claim or correct the antecedent basis of the claim language.
    - i. "the front side" should be - a front side -.
    - ii. "the rear side" should be - a rear side -.
  - in line 2, "the holding part has two housing parts". The use of "housing parts" should be changed because the terminology can be easily be confused with a

"holding part" addressed in claim 1. The examiner recommends using different wording for the housing parts of the holding part.

Appropriate correction is required.

3. Claim 4 is objected to because of the following informalities:

- "a lever arm" should be - the lever arm -.
- "a float" should read - the float -.

Appropriate correction is required.

4. Claim 8 is objected to because of the following informalities:

- in line 2, "the holding part has arms" renders this claim indefinite by using the same terminology "arms" as in claim 1; the "arm" is defined as a "lever arm" attached to the holding part, and one of ordinary skill in the art would not know what is understood by the term "arms". The examiner is using the broadest reasonable interpretation of the claimed subject matter consistent with the specification [MPEP 2111].
- in line 3, "has arms partially engaging around it" renders this claim indefinite. It is not clear from this wording what the term "it" defines and one of ordinary skill in the art would not know what is understood by the term "it" with regards to what the arms are engaging. The examiner is using the broadest reasonable interpretation of the claimed subject matter consistent with the specification [MPEP 2111] and using the support in place of the indefinite terminology.

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Swindler et al. (US Patent No. 6089086).

Regarding claim 1, Swindler et al. disclose a level sensor 200 (fig. 20, col. 15, lines 36-37) for determining a fuel level 238 (fig. 21, col. 17, lines 1-2) in a fuel tank 228 (fig. 21, col. 16, lines 22-23) of a motor vehicle (col. 1, line 21), with a support 202 (fig. 20, col. 15, line 40) for fastening in the fuel tank, with a holding part 204 (fig. 20, col. 15, line 39) connected to the support (fig. 20, col. 15, lines 37-39), with a mounting 256 (fig. 24a, col. 20, line 47), which is arranged on the holding part (fig. 24a, col. 20, lines 47-48), for a lever arm 212 (fig. 27c & 27d, col. 20, line 48) supporting a float 220 (fig. 20, col. 15, lines 58-59), and with fastening means 292 (fig 27b, col. 23, line 3) arranged on the holding part and the support, characterized in that the fastening means 90 (fig. 22a, col. 20, line 55) of the holding part correspond with the fastening means 260 (fig. 24a, col. 20, lines 54-55) of the support in positions of the holding part in which it is rotated about a horizontal axis (col. 15, lines 44-45) and about a vertical axis (fig. 21, col. 23, lines 17-20).

Regarding claim 2, Swindler et al. disclose the level sensor as characterized in that a front side 254 (fig. 24a, col. 20, line 45) and a rear side 302 (fig. 24a, col. 24, line 33) of the holding part each have identical fastening means 278 (col. 22, lines 5-6).

Regarding claim 3, Swindler et al. disclose the level sensor as characterized in that the holding part has two housing parts which can be connected to each other, with one of the housing parts 282 (fig. 24a, col. 22, line 42) according to choice forming a front side and the other of the housing parts 286 (fig. 24a, col. 22, lines 41-42) according to choice forming a rear side of the holding part.

Regarding claim 4, Swindler et al. disclose the level sensor as characterized in that the lever arm 212 (fig. 27c & 27d, col. 25, line 9) has a clip 310 (fig. 27b, col. 25, line 6) of plastic and a lever wire 218 (fig. 20, col. 25, line 8) which is fastened to the clip (fig. 27c & 27d, col. 25, lines 12-15) and supports the float, and in that the clip is mounted in both housing parts of the holding part (col. 15, lines 51-53).

Regarding claim 5, Swindler et al. disclose the level sensor as characterized in that one of the housing parts of the holding part has a receptacle 209 (fig. 24b & 24d, col. 15, line 43) for a resistance network 206 (fig. 25, col. 25, line 22) of a magnetically active position sensor 210 (fig. 25, col. 15, line 47) or a thick-film network of a potentiometer and the other housing part has a slideway 288 (fig. 27b) for the lever arm.

Regarding claim 6, Swindler et al. disclose the level sensor as characterized in that the receptacle is formed symmetrically with respect to a rotatable installation (col. 21, lines 46-47) of the resistance network of the magnetically active position sensor or of the thick-film network of a potentiometer.

Regarding claim 7, Swindler et al. disclose the level sensor as characterized in that the lever wire has an angled portion (90 degree turns in 212, fig. 24c) which is introduced into a recess (groove through 212, fig. 24c) of the clip, and in that the recess of the clip is arranged outside the holding part (fig. 24c) and at a distance from the mounting (width of 292, fig. 27b & 27d) of the clip.

Regarding claim 8, Swindler et al. disclose the level sensor as characterized in that the support of the two housing parts of the holding part has arms 89 (fig. 22e) at least partially engaging around it and a stop 54 (fig. 22e) for supporting the holding part.

Regarding claim 9, Swindler et al. disclose the level sensor as characterized in that the fastening means of the support and of the holding part are designed as latching hooks and latching recesses (col. 20, lines 50-55).

Regarding claim 10, Swindler et al. disclose the level sensor as characterized in that the housing parts have latching means for their connection to each other (col. 20, lines 52-56).

Regarding claim 11, Swindler et al. disclose the level sensor as characterized in the level sensor as characterized in that the lever wire is guided via the holding part (fig. 24c, col. 25, lines 6-11).

Regarding claim 12, Swindler et al. disclose that two clips are provided 310 (fig. 27b, col. 25, line 6), one of the clips (310 at the bottom of 212, fig. 27b & 27d) having, on its side facing away from a magnet 210 (fig 25, col. 15, lines 56-57) of the position sensor or a contact of the potentiometer, a bent portion (fig. 27a, col. 27, lines 11-13) for

securing the lever wire (col. 25, lines 1-4), and the other clip (310 at the top of 212, fig. 27b & 27d) having the bent portion on the opposite side.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL LE BOULLUEC whose telephone number is (571)270-3892. The examiner can normally be reached on Monday-Thursday from 7:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marvin Lateef, can be reached on 571-290-5026. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MLe 21 February 2008

/Marvin M. Lateef/  
Supervisory Patent Examiner, Art Unit 4146